



House of Representatives

General Assembly

File No. 547

February Session, 2014

House Bill No. 5219

House of Representatives, April 15, 2014

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING MAINTENANCE OF PRIVATE EASEMENTS AND RIGHTS-OF-WAY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2014*) (a) As used in this
2 section: (1) "Residential real property" has the same meaning as
3 provided in section 20-325c of the general statutes, but does not
4 include property owned by the state or any political subdivision
5 thereof; (2) "benefited property" or "property that benefits" includes
6 residential real property burdened by an easement or right-of-way, the
7 owner of which residential real property uses such easement or right-
8 of-way; and (3) "easement" or "right-of-way" means a private
9 appurtenant easement or right-of-way.

10 (b) The owner of any residential real property that benefits from an
11 easement or right-of-way, the purpose of which is to provide access to
12 such residential real property, shall be responsible for the cost of
13 maintaining such easement or right-of-way in good repair and the cost
14 of repairing or restoring any damaged portion of such easement or

15 right-of-way. Such maintenance shall include, but not be limited to, the
16 removal of snow from such easement or right-of-way.

17 (c) If more than one residential real property benefits from such
18 easement or right-of-way, the cost of maintaining and repairing or
19 restoring such easement or right-of-way shall be shared by each owner
20 of a benefited property, pursuant to the terms of any enforceable
21 written agreement entered into for such purpose. In the absence of
22 such agreement, the cost of maintaining and repairing or restoring
23 such easement or right-of-way shall be shared by each owner of a
24 benefited property in proportion to the benefit received by each such
25 property.

26 (d) Notwithstanding the provisions of subsections (b) and (c) of this
27 section, any owner of a benefited property who directly or indirectly
28 damages any portion of the easement or right-of-way shall be solely
29 responsible for repairing or restoring the portion damaged by such
30 owner.

31 (e) If any owner of a benefited property refuses to repair or restore a
32 damaged portion of an easement or right-of-way in accordance with
33 subsection (d) of this section, or fails, after a demand in writing, to pay
34 such owner's proportion of the cost of maintaining or repairing or
35 restoring such easement or right-of-way in accordance with subsection
36 (c) of this section, an action for specific performance or contribution
37 may be brought in the Superior Court against such owner by other
38 owners of benefited properties, either jointly or severally.

39 (f) In the event of any conflict between the provisions of this section
40 and an agreement described in subsection (c) of this section, the terms
41 of the agreement shall control.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2014	New section

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill allows action to be brought before the Superior Court for failure to maintain private easements and rights-of-way. There is no impact to the Judicial Department as the number of cases is not anticipated to be great enough to need additional resources. The court system disposes of over 400,000 cases annually.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 5219*****AN ACT CONCERNING MAINTENANCE OF PRIVATE EASEMENTS AND RIGHTS-OF-WAY.*****SUMMARY:**

This bill requires the owner of a one- to four-family residential property located in Connecticut, who uses a private easement or right-of-way to access his or her property (i.e., the “benefited property”), to be responsible for the cost to maintain (including snow removal), repair, or restore any damage to the easement or right-of-way.

Under the bill, “benefited property” does not include property owned by the state, but it includes the property burdened by the easement or right-of-way if its owner uses the easement or right-of-way.

Under the bill, in the case of more than one benefited property, the owners must share the cost (1) according to any enforceable written agreement, or (2) in proportion to the benefit received by each property, if there is no agreement. (The bill does not specify the basis on which the proportion of benefit is determined.)

The bill makes the owner of a benefited property who damages, directly or indirectly, any portion of the easement or right-of-way, solely responsible for repairing or restoring the portion he or she damaged. (Presumably, this means specific performance, not a requirement that is limited to paying the cost.)

The bill also gives owners of benefited properties the right to bring action in Superior Court, for specific performance or contribution, against an owner who (1) refuses to repair or restore damage for which he or she is solely responsible or (2) after a demand in writing, fails to

pay his or her share of the maintenance, repair, or restoration cost of the easement or right-of-way.

Lastly, the bill specifies that the terms of an enforceable written agreement govern, if they conflict with the bill's provisions.

EFFECTIVE DATE: October 1, 2014

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 36 Nay 0 (03/28/2014)